IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9707 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RATIBHAI HARJIVANBHAI L/H OF HARJIVANBHAI JOITABHAI & 3 - Petitioner(s)

Versus

SPECIAL LAND ACQUISITION OFFICER & 3 - Respondent(s)

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Appearance :

MR GM AMIN for Petitioner(s) : 1,1.2.1 - 4.

MR SP HASURKAR LD. AGP for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

and

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 20/12/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

It is stated by Mr. GM Amin ld. Advocate appearing for the petitioners that the application with regard to the apportionment of compensation has already been submitted to the Special Land Acquisition Officer,

Narmada Scheme Unit No. 3, at Ahmedabad, on 22.4.2004, but the same has not yet been decided by him. The petitioners are, therefore, constrained to approach this Court by way of this petition. The petition is filed in the month of August, 2004. According to Mr. Amin, even after filing of the petition, Special Land Acquisition Officer, respondent no. 1, in this petition, has not taken any decision on the said application. It is quite possible that since the petition has been filed, the Special Land Acquisition Officer – respondent no. 1 may not have though it fit to entertain the same dispute and give decision thereon when the matter is sub-judice before this Court. However, when the application has been submitted to respondent no. 1 and when some exercise on the questions of facts has to be carried out, it will be proper for the said authority to entertain, enquire into and decide the said application and give proper decision thereon. We, therefore, give the following directions:

i) Respondent no. 1 shall hear and decide the application as early as possible and in any case, not later than 31.1.2006.

ii) Before taking any decision, he will grant appropriate opportunity of hearing to the petitioners.

iii)While deciding the same, he will follow the procedure under sec. 28A of the Land Acquisition Act and whatever decision that may be arrived at by him, shall be intimated to the petitioners.

iv)After the decision is arrived at and intimated to the petitioners, respondent no. 1 shall take steps to disburse the amount of compensation to the persons entitled to receive it.

With the aforesaid directions, the petition stands disposed of. Rule is discharged.

(KSHITIJ R. VYAS, J.)

(AKSHAY H. MEHTA, J.)mandora/